

United Mexican States, Mexico refused to extradite murder suspect and U.S. citizen Jose Luis Del Toro to the United States until the State of Florida agreed not to exercise its right to seek capital punishment in its criminal prosecution of him;

Whereas under the Extradition Treaty Mexico has refused to extradite other suspects of capital crimes; and

Whereas the Extradition Treaty interferes with the justice system of the United States and encourages criminals to flee to Mexico: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE REGARDING THE RENEGOTIATION OF THE U.S.-MEXICAN EXTRADITION TREATY.

It is the sense of the Senate that—

(1) the President should renegotiate the Extradition Treaty Between the United States of America and the United Mexican States, signed in Mexico City in 1978 (31 U.S.T. 5059), so that the possibility of capital punishment will not interfere with the timely extradition of criminal suspects from Mexico to the United States.

AMENDMENTS SUBMITTED

INTERNET TAX FREEDOM ACT

BUMPERS (AND GRAHAM)
AMENDMENT NO. 3677

Mr. BUMPERS (for himself and Mr. GRAHAM) proposed an amendment to the bill (S. 442) to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

At the appropriate place, insert the following new title:

TITLE ___ COLLECTION OF STATE AND LOCAL SALES TAXES ON OUT-OF-STATE SALES

SEC. ___01. SHORT TITLE.

This title may be cited as the "Consumer and Main Street Protection Act of 1998".

SEC. ___02. FINDINGS.

Congress finds that—

(1) merchandise purchased from out-of-State firms is subject to State and local sales taxes in the same manner as merchandise purchased from in-State firms,

(2) State and local governments generally are unable to compel out-of-State firms to collect and remit such taxes, and consequently, many out-of-State firms choose not to collect State and local taxes on merchandise delivered across State lines,

(3) moreover, many out-of-State firms fail to inform their customers that such taxes exist, with some firms even falsely claiming that merchandise purchased out-of-State is tax-free, and consequently, many consumers unknowingly incur tax liabilities, including interest and penalty charges,

(4) Congress has a duty to protect consumers from explicit or implicit misrepresentations of State and local sales tax obligations,

(5) small businesses, which are compelled to collect State and local sales taxes, are subject to unfair competition when out-of-State firms cannot be compelled to collect and remit such taxes on their sales to residents of the State,

(6) State and local governments provide a number of resources to out-of-State firms including government services relating to disposal of tons of catalogs, mail delivery, communications, and bank and court systems,

(7) the inability of State and local governments to require out-of-State firms to collect and remit sales taxes deprives State and local governments of needed revenue and forces such State and local governments to raise taxes on taxpayers, including consumers and small businesses, in such State,

(8) the Supreme Court ruled in *Quill Corporation v. North Dakota*, 112 S. Ct. 1904 (1992) that the due process clause of the Constitution does not prohibit a State government from imposing personal jurisdiction and tax obligations on out-of-State firms that purposefully solicit sales from residents therein, and that the Congress has the power to authorize State governments to require out-of-State firms to collect State and local sales taxes, and

(9) as a matter of federalism, the Federal Government has a duty to assist State and local governments in collecting sales taxes on sales from out-of-State firms.

SEC. ___03. AUTHORITY FOR COLLECTION OF SALES TAX.

(a) IN GENERAL.—A State is authorized to require a person who is subject to the personal jurisdiction of the State to collect and remit a State sales tax, a local sales tax, or both, with respect to tangible personal property if—

(1) the destination of the tangible personal property is in the State,

(2) during the 1-year period ending on September 30 of the calendar year preceding the calendar year in which the taxable event occurs, the person has gross receipts from sales of such tangible personal property—

(A) in the United States exceeding \$3,000,000, or

(B) in the State exceeding \$100,000, and

(3) the State, on behalf of its local jurisdictions, collects and administers all local sales taxes imposed pursuant to this title.

(b) STATES MUST COLLECT LOCAL SALES TAXES.—Except as provided in section ___04(d), a State in which both State and local sales taxes are imposed may not require State sales taxes to be collected and remitted under subsection (a).

(c) AGGREGATION RULES.—All persons that would be treated as a single employer under section 52 (a) or (b) of the Internal Revenue Code of 1986 shall be treated as one person for purposes of subsection (a).

(d) DESTINATION.—For purposes of subsection (a), the destination of tangible personal property is the State or local jurisdiction which is the final location to which the seller ships or delivers the property, or to which the seller causes the property to be shipped or delivered, regardless of the means of shipment or delivery or the location of the buyer.

SEC. ___04. TREATMENT OF LOCAL SALES TAXES.

(a) UNIFORM LOCAL SALES TAXES.—

(1) IN GENERAL.—Sales taxes imposed by local jurisdictions of a State shall be deemed to be uniform for purposes of this title and shall be collected under this title in the same manner as State sales taxes if—

(A) such local sales taxes are imposed at the same rate and on identical transactions in all geographic areas in the State, and

(B) such local sales taxes imposed on sales by out-of-State persons are collected and administered by the State.

(2) APPLICATION TO BORDER JURISDICTION TAX RATES.—A State shall not be treated as failing to meet the requirements of paragraph (1)(A) if, with respect to a local juris-

dition which borders on another State, such State or local jurisdiction—

(A) either reduces or increases the local sales tax in order to achieve a rate of tax equal to that imposed by the bordering State on identical transactions, or

(B) exempts from the tax transactions which are exempt from tax in the bordering State.

(b) NONUNIFORM LOCAL SALES TAXES.—

(1) IN GENERAL.—Except as provided in subsection (d), nonuniform local sales taxes required to be collected pursuant to this title shall be collected under one of the options provided under paragraph (2).

(2) ELECTION.—For purposes of paragraph (1), any person required under authority of this title to collect nonuniform local sales taxes shall elect to collect either—

(A) all nonuniform local sales taxes applicable to transactions in the State, or

(B) a fee (at the rate determined under paragraph (3)) which shall be in lieu of the nonuniform local sales taxes described in subparagraph (A).

Such election shall require the person to use the method elected for all transactions in the State while the election is in effect.

(3) RATE OF IN-LIEU FEE.—For purposes of paragraph (2)(B), the rate of the in-lieu fee for any calendar year shall be an amount equal to the product of—

(A) the amount determined by dividing total nonuniform local sales tax revenues collected in the State for the most recently completed State fiscal year for which data is available by total State sales tax revenues for the same year, and

(B) the State sales tax rate.

Such amount shall be rounded to the nearest 0.25 percent.

(4) NONUNIFORM LOCAL SALES TAXES.—For purposes of this title, nonuniform local sales taxes are local sales taxes which do not meet the requirements of subsection (a).

(c) DISTRIBUTION OF LOCAL SALES TAXES.—

(1) IN GENERAL.—Except as provided in subsection (d), a State shall distribute to local jurisdictions a portion of the amounts collected pursuant to this title determined on the basis of—

(A) in the case of uniform local sales taxes, the proportion which each local jurisdiction receives of uniform local sales taxes not collected pursuant to this title,

(B) in the case of in-lieu fees described in subsection (b)(2)(B), the proportion which each local jurisdiction's nonuniform local sales tax receipts bears to the total nonuniform local sales tax receipts in the State, and

(C) in the case of any nonuniform local sales tax collected pursuant to this title, the geographical location of the transaction on which the tax was imposed.

The amounts determined under subparagraphs (A) and (B) shall be calculated on the basis of data for the most recently completed State fiscal year for which the data is available.

(2) TIMING.—Amounts described in paragraph (1) (B) or (C) shall be distributed by a State to its local jurisdictions in accordance with State timetables for distributing local sales taxes, but not less frequently than every calendar quarter. Amounts described in paragraph (1)(A) shall be distributed by a State as provided under State law.

(3) TRANSITION RULE.—If, upon the effective date of this title, a State has a State law in effect providing a method for distributing local sales taxes other than the method under this subsection, then this subsection shall not apply to that State until the 91st day following the adjournment sine die of that State's next regular legislative session which convenes after the effective date of

this title (or such earlier date as State law may provide). Local sales taxes collected pursuant to this title prior to the application of this subsection shall be distributed as provided by State law.

(d) EXCEPTION WHERE STATE BOARD COLLECTS TAXES.—Notwithstanding section 03(b) and subsections (b) and (c) of this section, if a State had in effect on January 1, 1995, a State law which provides that local sales taxes are collected and remitted by a board of elected States officers, then for any period during which such law continues in effect—

(1) the State may require the collection and remittance under this title of only the State sales taxes and the uniform portion of local sales taxes, and

(2) the State may distribute any local sales taxes collected pursuant to this title in accordance with State law.

SEC. 05. RETURN AND REMITTANCE REQUIREMENTS.

(a) IN GENERAL.—A State may not require any person subject to this title—

(1) to file a return reporting the amount of any tax collected or required to be collected under this title, or to remit the receipts of such tax, more frequently than once with respect to sales in a calendar quarter, or

(2) to file the initial such return, or to make the initial such remittance, before the 90th day after the person's first taxable transaction under this title.

(b) LOCAL TAXES.—The provisions of subsection (a) shall also apply to any person required by a State acting under authority of this title to collect a local sales tax or in-lieu fee.

SEC. 06. NONDISCRIMINATION AND EXEMPTIONS.

Any State which exercises any authority granted under this title shall allow to all persons subject to this title all exemptions or other exceptions to State and local sales taxes which are allowed to persons located within the State or local jurisdiction.

SEC. 07. APPLICATION OF STATE LAW.

(a) PERSONS REQUIRED TO COLLECT STATE OR LOCAL SALES TAX.—Any person required by section 03 to collect a State or local sales tax shall be subject to the laws of such State relating to such sales tax to the extent that such laws are consistent with the limitations contained in this title.

(b) LIMITATIONS.—Except as provided in subsection (a), nothing in this title shall be construed to permit a State—

(1) to license or regulate any person,

(2) to require any person to qualify to transact intrastate business, or

(3) to subject any person to State taxes not related to the sales of tangible personnel property.

(c) PREEMPTION.—Except as otherwise provided in this title, this title shall not be construed to preempt or limit any power exercised or to be exercised by a State or local jurisdiction under the law of such State or local jurisdiction or under any other Federal law.

SEC. 08. TOLL-FREE INFORMATION SERVICE.

A State shall not have power under this title to require any person to collect a State or local sales tax on any sale unless, at the time of such sale, such State has a toll-free telephone service available to provide such person information relating to collection of such State or local sales tax. Such information shall include, at a minimum, all applicable tax rates, return and remittance addresses and deadlines, and penalty and interest information. As part of the service, the State shall also provide all necessary forms and instructions at no cost to any person using the service. The State shall prominently display the toll-free telephone num-

ber on all correspondence with any person using the service. This service may be provided jointly with other States.

SEC. 09. DEFINITIONS.

For the purposes of this title—

(1) the term "compensating use tax" means a tax imposed on or incident to the use, storage, consumption, distribution, or other use within a State or local jurisdiction or other area of a State, of tangible personal property;

(2) the term "local sales tax" means a sales tax imposed in a local jurisdiction or area of a State and includes, but is not limited to—

(A) a sales tax or in-lieu fee imposed in a local jurisdiction or area of a State by the State on behalf of such jurisdiction or area, and

(B) a sales tax imposed by a local jurisdiction or other State-authorized entity pursuant to the authority of State law, local law, or both;

(3) the term "person" means an individual, a trust, estate, partnership, society, association, company (including a limited liability company) or corporation, whether or not acting in a fiduciary or representative capacity, and any combination of the foregoing;

(4) the term "sales tax" means a tax, including a compensating use tax, that is—

(A) imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property as may be defined or specified under the laws imposing such tax, and

(B) measured by the amount of the sales price, cost, charge or other value of or for such property; and

(5) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

SEC. 10. EFFECTIVE DATE.

This title shall take effect 180 days after the date of the enactment of this title. In no event shall this title apply to any sale occurring before such effective date.

ABRAHAM AMENDMENT NO. 3678

Mr. MCCAIN (for Mr. ABRAHAM) proposed an amendment to the bill, S. 442, supra; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Paperwork Elimination Act."

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures."

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State government, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submissions of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104-106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and

Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term “executive agency” has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term “electronic signature” means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person’s approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms “form”, “questionnaire”, and “survey” include documents produced by an agency to facilitate interaction between an agency and non-government persons.

BRYAN AMENDMENT NO. 3679

Mr. MCCAIN (for Mr. BRYAN) proposed an amendment to the bill, S. 442, supra; as follows:

At the end of the bill, add the following:

TITLE II—CHILDREN’S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Children’s Online Privacy Protection Act of 1998”.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—The term “child” means an individual under the age of 13.

(2) OPERATOR.—The term “operator”—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term “Commission” means the Federal Trade Commission.

(4) DISCLOSURE.—The term “disclosure” means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purposes; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail services;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term “Federal agency” means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term “parent” includes a legal guardian.

(8) PERSONAL INFORMATION.—The term “personal information” means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contacting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term “verifiable parental consent” means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator’s personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term “website or online service directed to children” means—

(i) a commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term “person” means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term “online contact information” means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual

knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator’s agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator’s disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator’s further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child’s participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator

uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) **TERMINATION OF SERVICE.**—The regulations shall permit the operator of a website or an on-line service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) **ENFORCEMENT.**—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) **INCONSISTENT STATE LAW.**—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) **GUIDELINES.**—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) **INCENTIVES.**—

(1) **SELF-REGULATORY INCENTIVES.**—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) **DEEMED COMPLIANCE.**—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and com-

ment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) **EXPEDITED RESPONSE TO REQUESTS.**—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) **APPEALS.**—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) **IN GENERAL.**—

(1) **CIVIL ACTIONS.**—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.—

(2) **NOTICE.**—

(A) **IN GENERAL.**—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) **EXEMPTION.**—

(i) **IN GENERAL.**—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) **NOTIFICATION.**—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) **INTERVENTION.**—

(1) **IN GENERAL.**—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) **EFFECT OF INTERVENTION.**—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) **AMICUS CURIAE.**—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file *amicus curiae* in that proceeding.

(c) **CONSTRUCTION.**—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) **ACTIONS BY THE COMMISSION.**—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 203, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) **VENUE; SERVICE OF PROCESS.**—

(1) **VENUE.**—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) **SERVICE OF PROCESS.**—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) **IN GENERAL.**—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) **PROVISIONS.**—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) **EXERCISE OF CERTAIN POWERS.**—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement

imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.

NATIONAL HISTORIC TRAILS
INTERPRETIVE CENTER

THOMAS AMENDMENT NO. 3680

Mr. HAGEL (for Mr. THOMAS) proposed an amendment to the bill (H.R. 2186) to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming; as follows:

On page 6, beginning on line 2 strike "and, subject to the availability of appropriations," and insert "and".

On page 6 line 12 strike "subject to appropriations,".

On page 6 strike section [e] in its entirety and renumber the remaining sections accordingly.

GALLATIN LAND CONSOLIDATION
ACT OF 1998

BAUCUS (AND BURNS)
AMENDMENT NO. 3681

Mr. HAGEL (for Mr. BAUCUS for himself and Mr. BURNS) proposed an

amendment to the bill (S. 1719) to direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co.; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gallatin Land Consolidation Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) the land north of Yellowstone National Park possesses outstanding natural characteristics and wildlife habitats that make the land a valuable addition to the National Forest System;

(2) it is in the interest of the United States to establish a logical and effective ownership pattern for the Gallatin National Forest, reducing long-term costs for taxpayers and increasing and improving public access to the forest;

(3) it is in the interest of the United States for the Secretary of Agriculture to enter into an Option Agreement for the acquisition of land owned by Big Sky Lumber Co. to accomplish the purposes of this Act; and

(4) other private property owners are willing to enter into exchanges that further improve the ownership pattern of the Gallatin National Forest.

SEC. 3. DEFINITIONS.

In this Act:

(1) BLM LAND.—The term "BLM land" means approximately 2,000 acres of Bureau of Land Management land (including all appurtenances to the land) that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(2) BSL.—The term "BSL" means Big Sky Lumber Co., an Oregon joint venture, and its successors and assigns, and any other entities having a property interest in the BSL land.

(3) BSL LAND.—The term "BSL land" means approximately 54,000 acres of land (including all appurtenances to the land except as provided in section 4(e)(1)(D)(ii)) owned by BSL that is proposed to be acquired by the Secretary of Agriculture, as depicted in Exhibit A to the Option Agreement.

(4) EASTSIDE NATIONAL FORESTS.—The term "Eastside National Forests" means national forests east of the Continental Divide in the State of Montana, including the Beaverhead National Forest, Deerlodge National Forest, Helena National Forest, Custer National Forest, and Lewis and Clark National Forest.

(5) NATIONAL FOREST SYSTEM LAND.—The term "National Forest System land" means approximately 29,000 acres of land (including all appurtenances to the land) owned by the United States in the Gallatin National Forest, Flathead National Forest, Deerlodge National Forest, Helena National Forest, Lolo National Forest, and Lewis and Clark National Forest that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(6) OPTION AGREEMENT.—The term "Option Agreement" means—

(A) the document signed by BSL, dated July 29, 1998 and entitled "Option Agreement for the Acquisition of Big Sky Lumber Co. Lands Pursuant to the Gallatin Range Consolidation and Protection Act of 1993";

(B) the exhibits and maps attached to the document described in subparagraph (A); and

(C) an exchange agreement to be entered into between the Secretary and BSL and made part of the document described in subparagraph (A).

(7) SECRETARY.—The "Secretary" means the Secretary of Agriculture.

SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to the terms and conditions of the Option Agreement—

(1) if BSL offers title acceptable to the Secretary to the BSL land—

(A) the Secretary shall accept a warranty deed to the BSL land and a quit claim deed to agreed to mineral interests in the BSL land;

(B) the Secretary shall convey to BSL, subject to valid existing rights and to other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary and BSL, fee title to the National Forest System land; and

(C) the Secretary of the Interior shall convey to BSL, by patent or otherwise, subject to valid existing rights and other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary of the Interior and BSL, fee title to the BLM land;

(2) if BSL places title in escrow acceptable to the Secretary to 11½ sections of the BSL land in the Taylor Fork area as set forth in the Option Agreement—

(A) the Secretary shall place Federal land in the Bangtail and Doe Creek areas of the Gallatin National Forest, as identified in the Option Agreement, in escrow pending conveyance to the Secretary of the Taylor Fork land, as identified in the Option Agreement in escrow;

(B) the Secretary, subject to the availability of funds, shall purchase 7½ sections of BSL land in the Taylor Fork area held in escrow and identified in the Option Agreement at a purchase price of \$4,150,000; and

(C) the Secretary shall acquire the 4 Taylor Fork sections identified in the Option Agreement remaining in escrow, and any of the 6 sections referred to in subparagraph (B) for which funds are not available, by providing BSL with timber sale receipts from timber sales on the Gallatin National Forest and other eastside national forests in the State of Montana in accordance with subsection (c); and

(3)(A) as funds or timber sale receipts are received by BSL—

(i) the deeds to an equivalent value of BSL Taylor Fork land held in escrow shall be released and conveyed to the Secretary; and

(ii) the escrow of deeds to an equivalent value of Federal land shall be released to the Secretary in accordance with the terms of the Option Agreement; or

(B) if funds or timber sale receipts are not provided to BSL as provided in the Option Agreement, BSL shall be entitled to receive patents and deeds to an equivalent value of the Federal land held in escrow.

(b) VALUATION.—

(1) IN GENERAL.—The property and other assets exchanged or conveyed by BSL and the United States under subsection (a) shall be approximately equal in value, as determined by the Secretary.

(2) DIFFERENCE IN VALUE.—To the extent that the property and other assets exchanged or conveyed by BSL or the United States under subsection (a) are not approximately equal in value, as determined by the Secretary, the values shall be equalized in accordance with methods identified in the Option Agreement.

(c) TIMBER SALE PROGRAM.—

(1) IN GENERAL.—The Secretary shall implement a timber sale program, according to the terms and conditions identified in the Option Agreement and subject to compliance with applicable environmental laws (including regulations), judicial decisions, memoranda of understanding, small business set-aside rules, and acts beyond the control of the Secretary, to generate sufficient timber